



John T. Auberger
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS

MINUTES

OCTOBER 5, 2010

General Information:

Work Session: 6:30 p.m.

Meeting: 7:00 p.m.

Roll Call:

Albert F. Meilutis, Chairman

Michelle M. Betters

Diana M. Christodaro

Randy T. Jensen

John J. Riley

Keith J. Rockcastle

Christopher A. Schiano, Deputy Town Attorney

Ivana Frankenberger, Planning Assistant

Mary Jo Santoli, Zoning Board Secretary

Absent:

William F. Murphy

Pledge of Allegiance

Additions/Deletions to the Agenda

Announcements:

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OLD BUSINESS:

- 1. Applicant:** First Bible Baptist Church
Location: 1039 North Greece Road
Mon. Co. Tax No.: 058.03-3-45
Zoning District: R1-12 (Single-Family Residential)
Request: An appeal for relief from the Fire Sprinkler Law adopted by the Greece Town Board by Local Law #4 of the year 2000. Sec. 115-4 A

Ms. Christodaro offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 1039 North Greece Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.

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9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried

Ms. Christodaro then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of First Bible Baptist Church, 1039 North Greece Road, Walter Malcolm, on behalf of the applicant, appeared before the Board of Zoning Appeals this evening requesting an appeal for relief from the Fire Sprinkler Law adopted by the Greece Town Board as Local Law #4 of the year 2000.

WHEREAS, Mr. Malcolm testified that the building has been vacant for about two years now and they have a short-term lease in place with a tenant, Villager Construction Company. While this construction company is reconstructing Mill Road, there will be some need for office and meeting space and they have entered into a short-term lease with First Bible Baptist, using two rooms in their facility. It is approximately 2000 sq. ft., and the Fire Marshal had gone out and made a recommendation to this Board that was previously read into the meeting minutes by the Chairman.

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WHEREAS, in order for an appeal, the applicant needs to meet one or more of Board criteria and it is my opinion that the applicant met two of the four criteria, one meaning that an excessive and unreasonable economic burden will be placed on the applicant should they have to install a fire sprinkler system to adhere to code, and also that there are viable alternatives which were outlined by the Fire Marshal that would achieve the intent and objective of this Fire Sprinkler Law.

WHEREAS, so based on the information from the Fire Marshal, I am going to approve this application for relief of the Fire Sprinkler Law with the following conditions:

1. That it is for this tenant only, namely Villager Construction Company.
2. That it is going to be confined to the two rooms, which the Fire Marshal did inspect, and they will be used for office and meeting use.
3. That it would be valid until September 30, 2012.
4. And that the rooms continue to be monitored as mentioned in the Fire Marshal's memo, dated September 9, 2010.

Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy
Mr. Rockcastle**

**Yes
Yes
Absent
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Yes**

**Motion Carried
Application Approved
With Conditions**

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- 2. Applicant:** Auction Direct USA
Location: 4350 West Ridge Road
Mon. Co. Tax No.: 073.01-1-7
Zoning District: BG (General Business)
Request: A special use permit to operate a business for the sale, lease or rental of new and used cars and trucks, including related repair or service facilities; and for outdoor storage or display of motor vehicles. Sec. 211-17 C (3) (b) [3] & Sec. 211-17 C (3) (b) [4]

On a motion by Ms. Christodaro and seconded by Ms. Betters, it was resolved to continue the public hearing on this application until the meeting of October 19, 2010, as requested by the applicant.

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

**Motion Carried
Application Continued
Until Meeting of
October 19, 2010**

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NEW BUSINESS:

- 1. Applicant:** Michael E. & Kimberly A. Kimble
Location: 329 Gnage Lane
Mon. Co. Tax No.: 045.03-2-88
Zoning District: R1-E (Single-Family Residential)
Request:
- a) An area variance for a proposed shed (12.0 ft. x 12.0 ft.; 144.0 sq. ft.) to be partially located in a front and side yard, where accessory structures, including sheds, are permitted in rear yards only. Sec. 211-11 E (3)
 - b) An area variance for an existing shed (8.6 ft. x 10.3 ft.; 88.6 sq. ft.) to have a (east) side setback of 3.6 ft., instead of the 4.0 ft. minimum required. Sec. 211-11 E (1), Table I
 - c) An area variance for an existing shed (8.6 ft. x 10.3 ft.; 88.6 sq. ft.) to have a (south) side setback of 3.6 ft., instead of the 4.0 ft. minimum required. Sec. 211-11 E (1), Table I

On a motion by Mr. Jensen and seconded by Mr. Riley, it was resolved to continue the public hearing on this application until the meeting of October 19, 2010, as requested by the applicant.

**Ms. Betters
Mr. Jensen
Mr. Murphy
Mr. Rockcastle**

**Yes
Yes
Absent
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Yes**

**Motion Carried
Application Continued
Until Meeting of
October 19, 2010**

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- 2. Applicant:** Arthur & Carol Dunn
Location: 237 Wildwood Drive
Mon. Co. Tax No.: 060.71-5-14
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed 4.0 ft. high, closed-construction fence to be located in a front or corner yard, where fences in front yards shall be of open construction. Sec. 211-46 L
b) An area variance for a proposed 4.0 ft. high, closed-construction fence (approximately 30 lin. ft.) to be located in a front yard, where fences located within the clear visibility portion of a front yard, as established in Section 211-33 B, shall not exceed 3.0 ft. in height and shall be of open construction. Sec. 211-46 D; Sec. 211-46 L; Sec. 211-33 B(2)

Mr. Riley offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 237 Wildwood Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried

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Mr. Riley then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Arthur & Carol Dunn, 237 Wildwood Drive, Arthur Dunn appeared before the Board of Zoning appeals this evening requesting an area variance for a proposed 4.0 ft. high, closed-construction fence to be located in a front or corner yard, where fences in front yards shall be of open construction; and an area variance for a proposed 4.0 ft. high, closed-construction fence (approximately 30 lin. ft.) to be located in a front yard, where fences located within the clear visibility portion of a front yard, as established in Section 211-33 B, shall not exceed 3.0 ft. in height and shall be of open construction.

WHEREAS, the applicant testified that he has lived at 237 Wildwood Drive for approximately 32 years, and the purpose of his request primarily has to do with the fact that he and his wife train therapy dogs and ultimately need a safe enclosure. This new fence that is proposed is going to be replacing a portion of an old fence that has become deteriorated, has been repaired—patchwork repaired—over the years, but they have had some issues with the dogs sneaking out of the old fence. This is a corner lot, the corner of Long Ridge Avenue and Wildwood Drive. A one-story house sits on it and in virtually any portion of the yard the applicant would likely be faced with a variance request due to the fact that the rear setback of the house off the rear lot line is only approximately 5 ft. The new proposed fence is, its dimensions are, approximately 40 ft. x 20 ft. It is going to be off the front of the house, the Long Ridge side of the house, and there will be a gate through the driveway. The chairman briefly summarized one letter of support from a Long Ridge Avenue resident who is in support of the application.

WHEREAS, it is my opinion that this variance is not substantial and that undesirable change will not be produced in the character of the neighborhood, nor will it be a detriment to nearby properties, should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue. It is further my opinion that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And the alleged difficulty was not self-created, which consideration is relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with two conditions:

1. That it is for the life of the fence.
2. That the applicant signs a Hold Harmless Agreement with the Town of Greece.

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Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried
Application Approved
With Conditions

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- 3. Applicant:** Kathleen L. Mason
Location: 70 Pointe Vintage Lane
Mon. Co. Tax No.: 059.03-2-56
Zoning District: R1-18 (Single-Family Residential)
Request: An area variance for a proposed 6.0 ft. high, closed-construction fence (approximately 120.0 lin. ft. total), to be located in a front or corner yard and also within a portion of a rear yard that adjoins the front yard of an adjoining lot, where fences in front yards or rear yards adjoining a front yard shall not exceed 4.0 ft. in height and shall be of open construction. Sec. 211-46 L; Sec. 211-47 A (1)

Ms. Betters offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 70 Pointe Vintage Lane, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Ms. Christodaro and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried

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Ms. Betters then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Kathleen Mason, 70 Pointe Vintage Lane, Kathleen and her husband, Paul, appeared before the Board of Zoning appeals this evening requesting an area variance for a proposed 6.0 ft. high, closed-construction fence (approximately 120.0 lin. ft. total), to be located in a front or corner yard and also within a portion of a rear yard that adjoins the front yard of an adjoining lot, where fences in front yards or rear yards adjoining a front yard shall not exceed 4.0 ft. in height and shall be of open construction.

WHEREAS, the applicant testified that she has been a resident for approximately a year and the purpose of the fence would be to kind of complete the corner and for aesthetics in the rear yard. A neighbor appeared before this Board tonight also in favor of the fence, Mr. Charlie Schmitt of 52 Pointe Vintage Lane, and also another neighbor, Mr. Bob Arena, verbally expressed to the applicant that he was also in favor of the fence.

WHEREAS, after considering the five points when determining an area variance, it is my opinion that there would not be an undesirable change in the neighborhood by granting this variance, nor will it be a detriment to nearby properties should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue. The requested area variance, in my opinion, is not substantial. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And the alleged difficulty was self-created, which consideration is relevant to the decision of the Board, but shall not necessarily preclude the granting of this variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with the condition that it is for the life of the fence.

Seconded by Ms. Christodaro and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried
Application Approved
With Condition

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- 4. Applicant:** Robert C. & Susan E. Brown
Location: 659 Heritage Drive
Mon. Co. Tax No.: 059.12-3-14
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for an existing deck (16.0 ft. x 24.0 ft.; 384.0 sq. ft.) to have a rear setback of 7 ft., instead of the 10.0 ft. minimum required. Sec. 211-11 E (1), Table I
b) An area variance for an existing shed (7.9 ft. x 10.2 ft.; 80.9 sq. ft.) to be located in a side yard, where accessory structures, including sheds, are permitted in rear yards only. Sec. 211-11 E (3)

Mr. Jensen offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 659 Heritage Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) & (12) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried

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Mr. Jensen then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Robert and Susan Brown, 659 Heritage Drive, Robert Brown appeared before the Board of Zoning Appeals this evening requesting an area variance for an existing deck (16.0 ft. x 24.0 ft.; 384.0 sq. ft.) to have a rear setback of 7 ft., instead of the 10.0 ft. minimum required; and an area variance for an existing shed (7.9 ft. x 10.2 ft.; 80.9 sq. ft.) to be located in a side yard, where accessory structures, including sheds, are permitted in rear yards only.

WHEREAS, Mr. Brown came before the Board of Zoning Appeals and stated that he had lived at the location for five years; both the deck and the shed were there when the house was purchased. The house is in the process of being sold, he has not closed on the property as of yet. The house is a corner lot, the northwest corner of Yarkerdale, the yard itself having a very small back yard, which makes the existing deck and the existing shed in the side yard, which caused the deck to have a rear setback of 7 ft. instead of 10 ft. because of the small size of the back yard and the existing shed being on a corner lot was located in the side yard, where they are permitted in rear yards only. The deck is currently not covered and there are not plans to cover the deck, and the shed is made out of wood and it is also placed on a wood platform. The applicant also stated that he will get all necessary permits and that he will have this all taken care of before the closing on the house, sometime in the near future.

WHEREAS, I believe that an undesirable change will not be produced in the character of the neighborhood, nor will it be a detriment to nearby properties, should this variance be granted. I also believe that the benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue. The requested area variance is not substantial and the proposed variance will not have any adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And the alleged difficulty was not self-created, which consideration is relevant to the decision of the Board, but shall not necessarily preclude the granting of this variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with the following conditions:

1. That this approval is for the life of the existing deck.
2. That this approval is for the life of the existing shed.
3. And that the applicant will get all permits necessary.

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Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried
Application Approved
With Conditions

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- 5. Applicant:** Marilyn Macri
Location: 1440 Edgemere Drive
Mon. Co. Tax No.: 035.09-1-12
Zoning District: R1-E (Single-Family Residential)
Request:
- a) An area variance for an existing detached deck (approximately 352 sq. ft.) located in a waterfront yard, where accessory structures, including decks, are permitted in rear yards only, and for said deck to have a (east) side setback of 0.0 ft. and a (west) side setback of 0.9 ft., instead of the 6.0 ft. minimum required. Sec. 211-11 E (1), Table I & Sec. 211-11 E (3)
 - b) An area variance for an existing attached deck (approximately 210 sq. ft.) located in a waterfront yard, where accessory structures, including decks, are permitted in rear yards only, and for said deck to have a (east) side setback of 0.0 ft. and a (west) side setback of 3.0 ft., instead of the 6.0 ft. minimum required. Sec. 211-11 E (1), Table I & Sec. 211-11 E (3)
 - c) An area variance for an existing detached deck (approximately 270 sq. ft.), to have a (east) side setback of 0.0 ft., instead of the 6.0 ft. minimum required. Sec. 211-11 E (1), Table I
 - d) An area variance for an existing accessory structure (pergola) to have a (east) side setback of 4.5 ft. and a (west) side setback of 1.9 ft., instead of the 6.0 ft. minimum required. Sec. 211-11 E (1), Table I

Mr. Riley offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 1440 Edgemere Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) & (12) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

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Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried

Mr. Riley then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Marilyn Macri, 1440 Edgemere Drive, Ms. Macri appeared before the Board of Zoning appeals this evening requesting an area variance for an existing detached deck (approximately 352 sq. ft.) located in a waterfront yard, where accessory structures, including decks, are permitted in rear yards only, and for said deck to have a (east) side setback of 0.0 ft. and a (west) side setback of 0.9 ft., instead of the 6.0 ft. minimum required; an area variance for an existing attached deck (approximately 210 sq. ft.) located in a waterfront yard, where accessory structures, including decks, are permitted in rear yards only, and for said deck to have a (east) side setback of 0.0 ft. and a (west) side setback of 3.0 ft., instead of the 6.0 ft. minimum required; an area variance for an existing detached deck (approximately 270 sq. ft.), to have a (east) side setback of 0.0 ft., instead of the 6.0 ft. minimum required; and an area variance for an existing accessory structure (pergola) to have a (east) side setback of 4.5 ft. and a (west) side setback of 1.9 ft., instead of the 6.0 ft. minimum required.

WHEREAS, Ms. Macri testified before the Board this evening that she has lived at 1440 Edgemere Drive for approximately five years. During the construction portion of her pergola, it was determined that no permits had ever been pulled in the past for any decks on this property. She is in the process of cleaning up the property, so to speak, right now with the Building Department. Fourteen-forty Edgemere Drive is a 25 ft. lot, as is common in that stretch of Edgemere Drive. To the west of 1440 Edgemere Drive is a 50 ft. lot; to the east is a series of 25 ft. lots toward the Crescent Beach Hotel. The 25 ft. lot width makes it very difficult for homeowners to navigate with the Building Department without facing some type of variance issue. The applicant testified that if in fact she were forced to bring the property into compliance regarding the code, she would be faced with an economic hardship. It was also observed and testified to by the applicant that all decks appear in good shape and they are in good construction. The two waterfront decks are common occurrences along Edgemere Drive, Lake Ontario, and some of the ponds in our town. They don't appear to be obstructing any waterfront view from any of the adjoining structures and to deny these items would not be keeping in concert of what this Board approved in the past.

WHEREAS, it is my opinion that an undesirable change will not be produced in the character of the neighborhood, nor will it be a detriment to nearby properties should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue. It is my opinion that the requested area variances are not substantial in this context. The proposed variances will not have any adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And the alleged difficulty was not self-created, which consideration is relevant to

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the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with the conditions that the applicant follow through with all the required permits regarding any decks or pergolas that are currently on the property and that the variance should be for the life of all decks and pergolas. Actually, any items contained within this application it would be for the life of all those.

Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy
Mr. Rockcastle

Yes
Yes
Absent
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Yes

Motion Carried
Application Approved
With Conditions

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OCTOBER 5, 2010

- 6. Applicant:** Texas Roadhouse
Location: 1946 & 1960 West Ridge Road
Mon. Co. Tax No.: 074.15-11-27 & 074.16-2-22
Zoning District: BR (Restricted Business)
Request:
- a) An area variance for a proposed freestanding restaurant to have a front setback 60.6 ft., measured from the west right-of-way line of Latona Road (aka Fetzner Road), instead of the 85.0 ft. minimum required. Sec. 211-17 B (4), Table III
 - b) An area variance for 378 parking spaces instead of the 609 parking spaces required. Sec. 211-45 N(3)(B); Sec. 211-45 N (4); Sec. 211-45 P; Sec. 211-45 Q; Sec. 211-45 S (1); Sec. 211-45 Z
 - c) An area variance for proposed lot coverage of 22.9%, instead of the 15% maximum permitted. Sec. 211-17 B (4), Table III
 - d) An area variance for a proposed second (south side) building-mounted sign, with a sign area of 229.8 sq. ft., instead of the one (1) 50.0 sq. ft. building-mounted sign permitted. Sec. 211-52 B (2)(a)[1] & Sec. 211-52 B (2)(c)[1], Table VII

On a motion by Ms. Christodaro and seconded by Mr. Jensen, it was resolved to continue the public hearing on this application until the meeting of October 19, 2010, as requested by the applicant.

**Ms. Betters
Mr. Jensen
Mr. Murphy
Mr. Rockcastle**

**Yes
Yes
Absent
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Yes**

**Motion Carried
Application Continued
Until Meeting of
October 19, 2010**

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OCTOBER 5, 2010

- 7. Applicant:** ROC N Burgers LLC
Location: 1948 West Ridge Road
Mon. Co. Tax No.: 074.15-11-27
Zoning District: BR (Restricted Business)
Request: An area variance for a proposed second building-mounted sign, with a sign area of 16.9 sq. ft., instead of the one (1) 30.0 sq. ft. building-mounted sign permitted. Sec. 211-52 B (2)(a)[1], & Sec. 211-52 B (2)(c)[1], Table VII

Ms. Christodaro offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 1948 West Ridge Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.

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9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried

Ms. Christodaro then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of ROC N Burgers LLC, 1948 West Ridge Road, Mike Mammano from Clinton Signs, on behalf of the applicant, appeared before the Board of Zoning Appeals this evening requesting an area variance for a proposed second building-mounted sign, with a sign area of 16.9 sq. ft., instead of the one (1) 30.0 sq. ft. building-mounted sign permitted.

WHEREAS, the applicant's representative testified that this is a new restaurant, new also to the area, and they are occupying a corner spot in this plaza. They currently have their first sign on the south side of the plaza, facing West Ridge Road, at 16.9 sq. ft., and they are requesting a second sign on the east side to accommodate the westbound traffic; the second sign would also be at 16.9 sq. ft. This is a destination location and I believe that

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it would be necessary for the public to be able to find the location of this new restaurant in the area. I do not see any problems with approving a second sign for this, again mentioning that they are on a corner spot within this facility.

WHEREAS, based on the information, I am going to approve this application as submitted.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried
Application Approved

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- 8. Applicant:** McDonald's USA, LLC
Location: 3800 Dewey Avenue
Mon. Co. Tax No.: 060.10-1-1; 060.10-1-15; 060.10-1-16
Zoning District: BG (General Business)
Request:
- a) An area variance for seven (7) building-mounted signs (3 "McDonald's" at 41.2 sq. ft. each; 4 "M" arches at 14.0 sq. ft. each) with a total sign area of 179.6 sq. ft., instead of the one (1) 38.0 sq. ft. building-mounted sign permitted. Sec. 211-52 B (2)(a)[1], & Sec. 211-52 B (2)(c)[1], Table VII
 - b) An area variance for three (3) freestanding directional signs (3.06 ft. x 3.1 ft.; 9.7 sq. ft. each) each including the McDonald's logo ("M" arch), where 5.0 sq. ft. is the maximum permitted per directional sign and where logos shall not be included. Sec. 211-52 B (3)(b)[1] & Sec. 211-52 B (3)(b)[3]
 - c) An area variance for two (2) menu boards (5.2 ft. x 8.5 ft.; 43.6 sq. ft. each) and for each to have a height of 6.8 ft., instead of the one (1) 20.0 sq. ft. menu board permitted at a height not to exceed 6.0 ft. Sec. 211-52 B (1)(a)[4]

Mr. Meilutis offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 3800 Dewey Avenue, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations,

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meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.

7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.
9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried

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Mr. Meilutis then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of McDonald's USA, LLC, 3800 Dewey Avenue, McDonald's representatives appeared before the Board of Zoning Appeals this evening requesting an area variance for seven (7) building-mounted signs (3 "McDonald's" at 41.2 sq. ft. each; 4 "M" arches at 14.0 sq. ft. each) with a total sign area of 179.6 sq. ft., instead of the one (1) 38.0 sq. ft. building-mounted sign permitted, an area variance for three (3) freestanding directional signs (3.06 ft. x 3.1 ft.; 9.7 sq. ft. each) each including the McDonald's logo ("M" arch), where 5.0 sq. ft. is the maximum permitted per directional sign and where logos shall not be included and an area variance for two (2) menu boards (5.2 ft. x 8.5 ft.; 43.6 sq. ft. each) and for each to have a height of 6.8 ft., instead of the one (1) 20.0 sq. ft. menu board permitted at a height not to exceed 6.0 ft.

WHEREAS, the applicant's representative testified that this is a new construction at the corner of English Road and Dewey Avenue. This particular construction is not your prototype, but rather has been designed for the Town of Greece, and in doing so they have met a lot of different challenges to not only complement the design of the revamped Northgate Center with the forthcoming Wal-Mart, but also to facilitate a new look completely that complements the area. In doing so, the building will become detached from the existing center; it now is located in pretty much the general vicinity. The traffic patterns will change, and as the traffic patterns change we will need to fully educate the consumers that will be visiting the site to be familiar with the drive patterns, as to how they should enter the site and drive around to the menu boards and leave the site. The applicant further stated that this is the only style McDonald's that they have. They have a real concern about customers recognizing this as a McDonald's because of its unique look to complement the project here at Northgate. As previously indicated on the request for the variance, the arches are really the issue. The "M" arches are really the issue that is going with the directional signs that he is bringing before the Board. Without the "M" arch on there, directional signs are not required to be approved by the Board here, and that is why we are considering this probability tonight.

WHEREAS, on the main motion, the applicants did appear before the Board requesting the variances as defined in our agenda this evening and based on the findings of fact, I am going to move that we approve all of the variances requested for this project and this is going to be unique to the town. It will be unique to McDonald's in the sense that it is a custom build design and it will certainly be able to be recognized through good signage to the customers and residents of the Town of Greece. Therefore, I move for the approval.

Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Absent	Mr. Riley	Yes
Mr. Rockcastle	Yes		

Motion Carried
Application Approved

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ADJOURNMENT

The meeting was adjourned at 8:25 p.m.

The Board of Zoning Appeals of the Town of Greece, in the County of Monroe and State of New York, rendered the above decisions.

Dated: _____
Albert F. Meilutis, Chairman